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**FILED**

**AUG 09 2011**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

**BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

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**IN THE MATTER OF**

**BURNELL RISH aka A. BURNELL  
RISH, and SHERRIL RICH,  
PETITIONERS,**

**VS.**

**MOUNTAIN OIL AND GAS, INC. and  
HOMELAND GAS AND OIL, LTD.,  
RESPONDENTS.**

**MOTION AND MEMORANDUM  
TO DISMISS PETITION  
WITHOUT PREJUDICE**

**DOCKET NO. 2010-015**

**CAUSE NO. 131-127A**

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The hearing of the foregoing matter was continued by Board Order on January 27, 2011 until the regularly scheduled Board Hearing on August 24, 2011 with the direction that the "Petitioners [to] appear before the Board . . . to update the Board on the status of the Communitization Agreement and leases at issue and to inform the Board of Petitioners' intentions with respect to the [claims]".

**MOTION TO DISMISS WITHOUT PREJUDICE**

The Division hereby moves the Board to Dismiss the above matter and the individual claims therein without prejudice, with the understanding and intent that the parties may re-file their requests for relief against Respondents, Mountain Oil and Gas,


Inc. and Homeland Gas and Oil, Ltd, pursuant to Utah code 40-6-9(2010) at any time with the expectation that the underlying issues including the status of the leases and the federal Communitization Agreement (CA) will have been resolved and the Board will be able to address the issues unless they have been otherwise resolved.

### **ARGUMENT**

These matters were originally filed in February 11, 2010 and have been continued several times due to uncertainty about the status of the leases and the federal CA. The Board conditioned the continuances on the establishment of an escrow for the proceeds that were claimed, and on September 24, 2010 an escrow agreement was established by Mountain Oil & Gas Inc, (MOG) for production from the 1-2BE Well in an amount of \$56,500.00 to be held by Daniel Sam as escrow agent. The underlying issues of the lease status and the CA status remain unresolved and appear likely to continue to be unresolved for an indefinite period of time. The most recent inquiries do not provide any expectation of any immediate resolution of these issues. The continuance of these cases creates administrative burdens for the Board and uncertainty to others concerning the possible actions by the Board. Since it is conceded that the Board cannot provide any further relief until the underlying issues are resolved and the payments are now being escrowed, it is recommended and moved that the matters be dismissed with the expectation that they can be re-filed without prejudice.

Respectfully submitted this 9<sup>th</sup> day of August, 2011

MARK L. SHURTLEFF  
UTAH ATTORNEY GENERAL

  
STEVEN F. ALDER  
Assistant Attorneys General

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing DIVISION'S MOTION AND MEMORANDUM TO DISMISS WITHOUT PREJUDICE for Docket Nos. 2010-017, Cause No. 131-127B to be mailed with postage prepaid to the address shown and emailed as shown to the following persons this \_\_\_\_ day of August, 2011

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A handwritten signature in blue ink, appearing to read "Steve Allen", is written over a horizontal line.